

1 licenses, additional stations in Allen, Texas to accommodate  
2 the demands that you expected to incur because of this big  
3 customer that you were talking to; is that correct?

4 A That's correct.

5 Q And you did not think that you were able to obtain  
6 additional license in your name or in Patricia's name?

7 A That's correct.

8 Q You had been told by PCIA and John Black that you  
9 could not obtain additional licenses?

10 A That's correct.

11 JUDGE STEINBERG: In your name or Patricia's name?

12 THE WITNESS: Yes, in my name or Patricia's name;  
13 yes,

14 MS. LANCASTER: Okay.

15 THE WITNESS: Or Metroplex Two Way either because  
16 we had done that before.

17 BY MS. LANCASTER:

18 Q Let's go back to Exhibit 19, 4(b), numerical 4(b).

19 JUDGE STEINBERG: That was paragraph (b) that you  
20 were just reading off of.

21 THE WITNESS: Oh.

22 MS. LANCASTER: That you just read.

23 JUDGE STEINBERG: If you need to review it again,  
24 feel free to do so.

25 THE WITNESS: All right, Your Honor.

1 (Witness reviews document.)

2 BY MS. LANCASTER:

3 Q When you approached the Sumpsters and Ms. Hill, did  
4 you review all of the criteria that you have listed in 4(b)  
5 with them to make a determination whether or not they would  
6 agree to fulfill the duties of a Commission licensee?

7 You see the little, where you have got the little  
8 (i) in parentheses?

9 A Yes, ma'am.

10 Q And you've got the (ii) and the (iii)?

11 A Yes, ma'am.

12 Q Did you ask them if they were going to be willing  
13 to participate in funding of the construction of the  
14 facilities?

15 A I do not -- I don't remember.

16 Q Did you ask them if they were going to be willing  
17 to fund the cost of operation?

18 A At the time they filed, I do not -- I do not  
19 remember that, Judy.

20 Q Okay.

21 JUDGE STEINBERG: You don't remember doing it or  
22 you don't remember if you did it?

23 THE WITNESS: I don't remember doing it.

24 BY MS. LANCASTER:

25 Q Did you ask them if they would be willing to

1 actively participate in sales of service and equipment to be  
2 provided to the customers?

3 A Yes. Yes, I did.

4 Q Okay. You recall asking them that?

5 A Yes. Mm-hmm.

6 Q How did you ask that?

7 A That they had the opportunity and with their  
8 connections to sell equipment and be placed on the system.  
9 They also could be placed on the system themselves.

10 Q Okay. And you said in order for you to  
11 participate, I need you to tell me that you will agree to do  
12 that?

13 A No.

14 Q You did not make that a condition of them being an  
15 applicant?

16 A That they had the opportunity to.

17 Q Okay. Did they indicate to you that they wanted  
18 to do that?

19 A Yes.

20 Q And you talked to who about that?

21 A Susan Lutz and the Sumpters.

22 Q All of the Sumpter?

23 A No, most of the conversation went through Norma  
24 and Jim.

25 Q Okay. Did you have any conversations about any of

1     these factors that you have enumerated in 4(b)? Did you  
2     have any conversations about those factors with Melissa?

3           A     No.

4           Q     Did you have any conversations about those factors  
5     with Jennifer?

6           A     No.

7           Q     You did have conversations with Jim about those  
8     factors?

9           A     Jim and Norma.

10          Q     Okay. In paragraph No. 6, which is on the next  
11     page, would you just read that first?

12                     (Witness reviews document.)

13                     THE WITNESS: All right, Judy.

14                     BY MS. LANCASTER:

15          Q     Okay. Did you have management agreements with O.  
16     C. regarding the licenses that were in his name?

17          A     Yes, ma'am.

18          Q     Okay. Was that a -- how did that originate?  
19     Originally what kind of management agreement did you make?

20          A     Originally, it was verbal, and then it became a  
21     contract.

22          Q     Okay. How about with Ruth, did you have a  
23     management agreement with Ruth?

24          A     Up until Net Wave petition, I assumed there was no  
25     station or license issued to her because I did -- I tried to

1 cancel that license.

2 Q Did you ever manage the license that was  
3 previously in Ruth's name, the KCG license that we discussed  
4 yesterday?

5 A The 800 license?

6 Q Yes.

7 A It was on a tower, and no, we did not manage it.  
8 We repaired it if there was ever a repair, but we did not  
9 manage that license. We did not sell or do anything with  
10 it.

11 Q Okay.

12 A It was really her -- her business license.

13 Q Did Ruth do anything to maintain that license, the  
14 prior license?

15 A I have no -- we never go out and had to repair it.  
16 We never was called.

17 Q Okay, did you install the equipment?

18 A No, it was installed before it -- this was some  
19 time in -- well, the answer to your question, no, we did  
20 not.

21 Q Okay. And I understand your answer to be  
22 regarding the final license that Ruth had, the one that we  
23 are discussing in this hearing, that there was no management  
24 agreement because you didn't think that there was a license?

25 A That's correct. And -- that's correct.

1           Q     Okay. In the third paragraph of No. 6 of Exhibit  
2     19, I'm going to read the first sentence of that paragraph.  
3     It says, "All other licensees participating in management  
4     agreements with DLB have provided substantial direction and  
5     supervision regarding the operation of the subject  
6     facilities."

7                     Tell me do you mean -- who do you mean to include?  
8     Who are the other licensees that you are including in that?

9           A     That's David, and of course, whatever license that  
10    we have, Susan Lutz was at the front desk. She seen and  
11    provided a lot of this information about loadings and how  
12    they were loaded herself; she seen those and prepared them.

13          Q     Is it your -- I'm sorry?

14          A     And prepared some of the documents.

15          Q     Did she ever direct you on how she wanted her  
16    station handled?

17          A     Her individual station itself?

18          Q     Yes.

19          A     She just knew it was in the configuration, but she  
20    knew what was going on at all of those stations.

21          Q     Did she ever direct you to do anything pertaining  
22    to that station?

23          A     No.

24          Q     Did she ever supervise any activities pertaining  
25    to that station?

1           A     Any activities?  Yes, I would say she did.

2           Q     What did she do?

3           A     At times she would notify the service department  
4     that stations in Allen or wherever was malfunctioning.  She  
5     would also cover that with the sales manager and the service  
6     manager.

7           Q     Did she know which specific station went with her  
8     license?

9           A     Whatever the call sign was, you know, her call  
10    sign, I know she knew that cause she kept all the  
11    documentation herself.  But you know, if call signs,  
12    something went down, she would know what frequency went  
13    down, and that's on her license, and it's also on the  
14    customer's records, which she maintained.

15          Q     Okay.  She knew which repeater went with her  
16    particular call sign, for example?

17          A     Yes, ma'am.

18          Q     Okay .

19                JUDGE STEINBERG:  Was that part of her regular  
20    duties to do this?

21                THE WITNESS:  Yes, sir.

22                JUDGE STEINBERG:  For other licensees, not only  
23    her?

24                THE WITNESS:  For the entire company, yes, sir.

25                JUDGE STEINBERG:  So she wasn't doing anything

1 more with respect to her license than she was doing with  
2 respect to everybody else's license?

3 THE WITNESS: I would not know that because --

4 JUDGE STEINBERG: In your opinion?

5 THE WITNESS: In my opinion.

6 JUDGE STEINBERG: We can ask her.

7 THE WITNESS: Yes, sir.

8 BY MS. LANCASTER:

9 Q And I believe you already --

10 JUDGE STEINBERG: I mean, Ms. Lutz, she was at the  
11 front desk or something?

12 THE WITNESS: Yes, sir.

13 JUDGE STEINBERG: And if there was a problem with  
14 a repeater that was licensed to Jim Sumpter, or a radio or  
15 whatever, I don't know what these things are, and a problem  
16 was reported to her or she found out about the problem,  
17 would she be able to get away with saying, "That's Jim  
18 Sumpter's station, let Jim take care of it"?

19 THE WITNESS: She would not have done that.

20 JUDGE STEINBERG: Okay. What would she have done?

21 THE WITNESS: She would notify our service  
22 department manager, and then he would dispatch somebody to  
23 take a look at the repeater or test out the system.

24 JUDGE STEINBERG: And the same thing with  
25 Melissa's license; is that right?



1 THE WITNESS: Yes, sir.

2 JUDGE STEINBERG: And the same thing with Norma's,  
3 she would do the same thing with Norma?

4 THE WITNESS: Yes, she --

5 JUDGE STEINBERG: She would the same thing with  
6 Jennifer Hill?

7 THE WITNESS: Yes, sir.

8 JUDGE STEINBERG: And she would do the same thing  
9 with David's?

10 THE WITNESS: Yes, sir.

11 JUDGE STEINBERG: And she would do the same thing  
12 with yours?

13 THE WITNESS: Yes, sir.

14 JUDGE STEINBERG: And she would do the same thing  
15 with Carolyn Lutz's facility?

16 THE WITNESS: Hers. Yes, sir.

17 JUDGE STEINBERG: Okay.

18 BY MS. LANCASTER:

19 Q In that last paragraph that I just started reading  
20 to you did you include O. C. when you're talking about the  
21 other licensees that participated in the supervision and  
22 direction of their stations?

23 A Correct.

24 Q Okay. So it's your testimony that O. C. provided  
25 substantial direction and supervision regarding his station?

1           A     Under -- in my father's and mother's property, I  
2     think we furnished to you the power of attorney that was  
3     granted to me and through the will, and I also put on the  
4     license, a response to FCC, I put O. C. Brasher/Ronald  
5     Brasher with the power of attorney and the license, that  
6     went to me. I mean, the -- the repair and information just  
7     like this would have been my authority or my responsibility.

8           Q     I have not seen a power of attorney, Mr. Brasher.  
9     Are you referring to the probate court records that were  
10    furnished to us, which would be Exhibit 7?

11          A     Exhibit 7.

12          Q     Look at Exhibit 7.

13               (Witness reviews document.)

14          THE WITNESS: All right, Judy.

15          BY MS. LANCASTER:

16          Q     Is that what you are talking about when you are  
17    saying power of attorney?

18          A     Could I answer it this way?

19               You know, this is -- this is legal documentation.

20          JUDGE STEINBERG: You're referring to Exhibit 7?

21          THE WITNESS: Yes, sir.

22          JUDGE STEINBERG: When you say "this"?

23          THE WITNESS: Yes, Exhibit 7.

24          MS. LANCASTER: Mm-hmm?

25          THE WITNESS: My knowledge of attorney and legal

1 things is extremely limited, and if it would be permissible  
2 to have an attorney explain.

3 BY MS. LANCASTER:

4 Q No, sir. I need to know what you thought that is?

5 A I thought that this gives me the legal rights to  
6 handle and do what is necessary for Ruth and O. C. Brasher's  
7 property.

8 Q Okay.

9 JUDGE STEINBERG: And when you say "this," you are  
10 referring to the documents contained in Exhibit 7, or are  
11 you talking about a specific document?

12 MR. ROMNEY: Your Honor.

13 JUDGE STEINBERG: Let me see what Mr. Brasher is  
14 looking at. Mr. Brasher is looking at Exhibit 7, page 6.

15 MR. ROMNEY: If I could insert here, and I don't  
16 mean to be out of order, but we have a 1992 durable power of  
17 attorney that is probably the more accurate document. And I  
18 don't know if this was ever given the FCC yet. This is from  
19 his attorney's office in 1992. I've got copies here.

20 JUDGE STEINBERG: Okay.

21 MR. ROMNEY: As far as my assertion of what under  
22 Texas rules, my understanding of that Exhibit No. 7, that  
23 that may have had some limited guardianship application to  
24 it. This, however, has a durable power of attorney for  
25 financial matters for Oscar Colquitt Brasher.

1 I understand, from my review of this document,  
2 that this would be the operative document that Mr. Brasher  
3 may or may not have recalled. I certainly don't think Mr.  
4 Brasher has the knowledge of what an attorney would have as  
5 to the operative documents.

6 I'm more than happy to share these copies with the  
7 Court, give copies to counsel. I apologize if there is an  
8 inconvenience. It came to us in the last couple of days or  
9 so, or I'm not sure exactly when this thing came to light;  
10 maybe --

11 MR. SCHWANINGER: The last couple of weeks.

12 MR. ROMNEY: -- because we didn't -- reviewing  
13 that document, Exhibit 7, that doesn't do much for me as far  
14 as that power goes.

15 If I could approach the Court --

16 MS. LANCASTER: Your Honor, I would object. We  
17 have not been served with this document. We have done  
18 depositions. There has never been any comment whatsoever  
19 about this document. We've asked for all discovery. This  
20 has certainly been an issue from the very beginning in this  
21 case, and there has never been any attempt to introduce any  
22 evidence regarding any other documents aside from what is in  
23 Exhibit 7. And I object to suddenly now coming up with a  
24 new document out of the blue.

25 JUDGE STEINBERG: Well, let's hand it out and then

1 see where we go from there.

2 Thank you, and then why don't you give the witness  
3 one.

4 (Pause.)

5 MR. KNOWLES-KELLETT: Can we go off the record for  
6 a second?

7 JUDGE STEINBERG: Yes, we can.

8 (Discussion off the record.)

9 JUDGE STEINBERG: Okay, we're back on the record.  
10 Now, the document that Mr. Romney just handed out,  
11 which one of the three attorneys knows the most about this?

12 MR. ROMNEY: I know what it is from Texas law  
13 standpoint.

14 JUDGE STEINBERG: No, I mean, I'm talking about  
15 how --

16 MR. ROMNEY: Where this came from?

17 JUDGE STEINBERG: About how this came to be -- I  
18 mean, I think I heard Mr. Schwaninger say you had it for  
19 about two weeks?

20 MR. SCHWANINGER: I don't know exactly when it  
21 arrived, Your Honor.

22 JUDGE STEINBERG: Okay, how did arrive?

23 MR. SCHWANINGER: It arrived from Mr. Brasher.

24 JUDGE STEINBERG: In the mail?

25 MR. SCHWANINGER: Yes.

1 JUDGE STEINBERG: Did Mr. Hicks know anything  
2 about this?

3 MR. SCHWANINGER: I'm not aware of whether or not  
4 Mr. Hicks knew exactly when it came in as well.

5 JUDGE STEINBERG: Does the office keep a record,  
6 like a rubber stamp, showing when it was received?

7 MR. SCHWANINGER: Not on this particular document.  
8 There was no receive stamp on this particular document.

9 JUDGE STEINBERG: Do you have the envelope with  
10 the postmark on it?

11 MR. SCHWANINGER: I think I've got a sheet of  
12 paper someplace. I'd have to check back in my office, Your  
13 Honor.

14 JUDGE STEINBERG: Okay, I would appreciate it if  
15 you would check because I think I heard you saying you've  
16 had it for about two weeks.

17 MR. SCHWANINGER: I'm just -- I was just  
18 estimating because, quite frankly, I was not made aware of  
19 this document myself until about two days ago when I was  
20 shuffling through some things, and I saw it there.

21 JUDGE STEINBERG: Why didn't you immediately turn  
22 it over to the Bureau?

23 MR. SCHWANINGER: I didn't -- this was not  
24 intended for any purpose or surprise. Quite frankly, I  
25 thought at the time that the Bureau had received it. I had

1     thought it had gone into my office, been duplicated and sent  
2     over to the Bureau. We have tried to be as forthcoming as  
3     we possibly can be with all documents to the Bureau, and it  
4     was my presumption and the normal procedure within my office  
5     that upon receipt that document would have been immediately  
6     duplicated and sent to the Bureau.

7             It was not done. That was outside of the  
8     procedure that was set up specifically for this matter. And  
9     I have not had the opportunity to due to preparation for  
10    trial and the time we are here to go back and find out why  
11    the heck that didn't happen by questioning the people inside  
12    my work room who should have performed that particular task.

13            JUDGE STEINBERG: Are there any other -- any other  
14    documents that you presently know of that haven't been  
15    exchanged with the Bureau?

16            MR. SCHWANINGER: Not -- none that I am aware of  
17    because the other documents that were in that particular  
18    little stack were duplicates of things that had already been  
19    sent over. That much I recognized. This is the only  
20    document I wasn't sure about. And frankly, we just figured  
21    out through Exhibit 7, et cetera, when Judy was doing the  
22    questioning, that there may be a problem with this.

23            And that's the reason why we are trying to admit  
24    it and hand it out as quickly as possible upon our  
25    discovery. My apologizes to Judy, my apologies to the

1 Bureau, my apologies to the Court.

2 I will be happy to tell you about the yell fest  
3 I'm going to have back in my work room, but that doesn't  
4 solve anything other than to say I'm disappointed with the  
5 fact that my people did not do exactly what they have done  
6 every other time in this matter, which is immediately  
7 duplicate and immediately send things to the Bureau.

8 JUDGE STEINBERG: Now, who in your office is most  
9 familiar with what we've called Exhibit 19?

10 MR. SCHWANINGER: Exhibit 19?

11 JUDGE STEINBERG: Yes. That was Mr. Brasher's  
12 response to the Commission's letter of inquiry.

13 MR. SCHWANINGER: Exhibit 19 would probably be Mr.  
14 Higgs as to the actual document itself.

15 JUDGE STEINBERG: Okay, why wasn't this mentioned  
16 in Exhibit 19? Do you know?

17 MR. HIGGS: I believe that in preparation of --

18 JUDGE STEINBERG: I'm talking about the original  
19 document which I'm, for convenience, calling Exhibit 19. It  
20 wasn't Exhibit 19 then.

21 MR. HIGGS: I was not aware personally of the  
22 existence of the durable power of attorney at the time  
23 Exhibit 19 was prepared.

24 JUDGE STEINBERG: When did you find out about it?

25 MR. HIGGS: Just recently, Your Honor.



1 JUDGE STEINBERG: Define recently.

2 MR. HIGGS: Two days ago.

3 MR. SCHWANINGER: Your Honor, we had asked Mr.  
4 Brasher to supply us with all documents that he believed at  
5 the time when Exhibit 19 was being assembled were what we  
6 had asked for as we would go step by step on all the  
7 document requests, and requests that from him as well as we  
8 went along.

9 There may have been some confusion as to these  
10 documents just simply due to the legal nature of them. I  
11 don't have personal knowledge as to why we didn't receive  
12 this document until later, but I suspect it may have  
13 something to do with the fact that I believe he was focusing  
14 more on the documents arising out of the death of people  
15 rather than documents that were executed during their life  
16 at the time that he was being asked the questions. But  
17 again, I'm just supposing.

18 JUDGE STEINBERG: Okay, let's take 10 minutes.  
19 And you know, you now know the existence of the document.  
20 You do with it what you wish. You can wait for Mr. Romney  
21 to offer it. You can, you know, you can ignore it. You can  
22 do whatever you what.

23 But if it's offered and you need to examine on it,  
24 you will have extremely great leeway in doing so. That's if  
25 it's received; it might not be received.

1 MS. LANCASTER: I'm not going to offer it, Your  
2 Honor.

3 JUDGE STEINBERG: Well, I didn't think you would,  
4 but I'm just telling you that, you know, I'm quite upset  
5 about this as you can tell because the purpose of discovery  
6 is to not have surprises, and a document such as this that  
7 frankly should have come in several years ago when you were  
8 responding to the Commission's inquiry with respect to the  
9 license of O. C. Brasher. And I think this prejudices the  
10 Bureau's case greatly, and I don't know really right now  
11 what I'm going to do with this. But since it's not being  
12 offered now, I don't have to worry about it.

13 Okay, let's take 10 minutes.

14 (Whereupon, a recess was taken.)

15 JUDGE STEINBERG: Back on the record.

16 I want to ask a couple of questions because I  
17 think I have lost track.

18 I think the original question that led to this  
19 power of attorney thing was -- I think Ms. Lancaster asked  
20 you under what agreement did you manage the stations on  
21 behalf of O. C.

22 Am I right about that?

23 MS. LANCASTER: No, sir. I was asking about  
24 Exhibit 19, and I asked him regarding numbered paragraph  
25 4(a) whether or not -- no, not 4(a).

1 JUDGE STEINBERG: You were on six.

2 MS. LANCASTER: Six, I was on six, whether or not  
3 the third paragraph of No. 6, whether or not he included O.  
4 C. when he referred to that "all other licensees," whether  
5 he was including O. C. in that. And he said yes, he was.

6 And I went up, and I was going up to the first  
7 paragraph of No. 6, at least my intention was, I don't know  
8 if we got there, how exactly we got off on Exhibit No. 7  
9 except that he went off -- Mr. Brasher went off and started  
10 telling me about his understanding was he had power of  
11 attorney.

12 JUDGE STEINBERG: Well, first I think it was --  
13 let me ask. You testified, and if you didn't say this, tell  
14 me because my memory can be faulty.

15 THE WITNESS: Yes, sir.

16 JUDGE STEINBERG: You testified that it was first  
17 an oral understanding.

18 THE WITNESS: Of the management agreement.

19 JUDGE STEINBERG: With your father?

20 THE WITNESS: With my father.

21 JUDGE STEINBERG: Okay, so you first had an oral  
22 understanding with your father --

23 THE WITNESS: Correct.

24 JUDGE STEINBERG: -- that you would manage his  
25 stations?

1 THE WITNESS: Correct.

2 JUDGE STEINBERG: And then later you mentioned the  
3 power of attorney. Is that how this came up?

4 I mean, please refresh my recollection because I  
5 am trying to put things in context.

6 MR. ROMNEY: Yes, sir. He said there was first a  
7 verbal understanding and then there is a written one  
8 executed by the power of -- or something had to do with his  
9 power of attorney and his ability to operate on his dad's  
10 behalf.

11 JUDGE STEINBERG: Okay, and that's how --

12 MR. ROMNEY: And then it went into Exhibit 7 --

13 JUDGE STEINBERG: Then that's how we got to  
14 Exhibit 7.

15 MR. ROMNEY: -- to try to explain that, and that's  
16 when I said Exhibit 7 may not be the operative document.  
17 This probably is.

18 JUDGE STEINBERG: Okay, "this" meaning --

19 MR. ROMNEY: The document I just handed to you.

20 JUDGE STEINBERG: -- the document you handed out.  
21 Okay. I think I'll ask the rest of my questions later, but  
22 I just -- I wanted to know the context in which this came  
23 up, at least to be sure in my head that I knew the context  
24 in which this came up so that I don't -- so that I can put  
25 everything in order, in place in my head.

1                   Okay, back to Ms. Lancaster.

2                   BY MS. LANCASTER:

3                   Q     Okay, back to Exhibit 7, Mr. Brasher, did you  
4     produce these records in response to Commission inquiries  
5     regarding your father's death?

6                   A     I would -- if this was furnished, it was probably  
7     due to inquiry about Ruth Bearden's license, I assume. I do  
8     not know.

9                   Q     This is -- Exhibit No. 7 is the probate court  
10    record -- probate court file pertaining to O. C. Brasher.

11                  A     Yes. How this came to you, to your office, I  
12    assume it could be from inquiry about Ruth Bearden's  
13    license. I don't -- nothing here tells me, Judy, where this  
14    thing --

15                  Q     Okay.,

16                  A     -- generated from.

17                  Q     Hold on a second.

18                       JUDGE STEINBERG: When you say "nothing here," you  
19    pointed to Exhibit 7?

20                       THE WITNESS: Exhibit 7, yes, sir. It's just --  
21    what created No. 7.

22                       BY MS. LANCASTER:

23                  Q     You remember giving a deposition in November; is  
24    that correct?

25                  A     Yes, ma'am.

1 MS. LANCASTER: Hold on. I have to find it.

2 (Pause.)

3 BY MS. LANCASTER:

4 Q Okay, do you remember on December -- I would  
5 direct your attention to December the 5th deposition.

6 (Pause.)

7 BY MS. LANCASTER:

8 Q I'm going to show you a copy of your December the  
9 5th -- transcript from your December the 5th deposition and  
10 ask that you look at page 233.

11 MR. ROMNEY: 233?

12 MS. LANCASTER: Yes.

13 MR. KNOWLES-KELLETT: We note for the record that  
14 we got the pages numbers corrected in the Ron Brasher  
15 deposition. The first day was numbered like one through 80  
16 something, and then both the second and the third days  
17 started at 84 and going forward. Then went one through 82  
18 on the first day.

19 MS. LANCASTER: Okay, look at page 95.

20 MR. ROMNEY: Ninety-five?

21 MS. LANCASTER: If you got the copy that I  
22 originally got, it would be page 95, and the corrected pages  
23 it's going to be page 235, so we have both page references.

24 BY MS. LANCASTER:

25 Q The very top of the page, Mr. Brasher, I'm asking

1 about what had been marked as the Exhibit 86 of the  
2 deposition exhibits. Exhibit 86 of the deposition exhibits  
3 is what is now EB Exhibit No. 7. Right.

4 MS. LANCASTER: Will you all stipulate to that?

5 MR. ROMNEY: Yes, we will.

6 (Witness reviews document.)

7 MS. LANCASTER: I stand corrected.

8 MR. ROMNEY: Did I stipulate to something that was  
9 wrong?

10 MS. LANCASTER: Well, Deposition Exhibit No. 86 is  
11 not the -- is not the complete probate file. It only  
12 contains portions --

13 MR. ROMNEY: Okay.

14 MS. LANCASTER: -- of what is contained in  
15 Exhibit, it would be Exhibit No. 7. Deposition Exhibit No.  
16 86 contained a summons -- I'll tell you what we need to do  
17 is probably make a copy of this and put it in.

18 MR. ROMNEY: And substitute it?

19 MR. KNOWLES-KELLETT: No.

20 MS. LANCASTER: No, put it in since there is some  
21 confusion now as to how it was offered since your client has  
22 indicated he doesn't know how we got it.

23 MR. ROMNEY: Well, if I could ask the Court a  
24 question, perhaps it -- is it my understanding -- is my  
25 understanding correct that what is before is Exhibit 7, was

1 that obtained by the Bureau from a request to the court --

2 MR. KNOWLES-KELLETT: No.

3 MR. ROMNEY: -- records in the probate court in  
4 Dallas?

5 MS. LANCASTER: We received it through discovery.

6 MR. ROMNEY: From --

7 MS. LANCASTER: From your office.

8 MR. ROMNEY: -- our offices?

9 MS. LANCASTER: Yes.

10 MR. KNOWLES-KELLETT: We sent Higgs a follow-up  
11 letter after the deposition where --

12 MR. ROMNEY: You asked for probate records.

13 MR. KNOWLES-KELLETT: -- you had promised to  
14 provide us what was -- what did in fact have a power of  
15 attorney because all there was was an application.

16 MR. ROMNEY: Well, I think you asked -- I mean,  
17 that --

18 MS. LANCASTER: We also --

19 MR. ROMNEY: I don't mean to belabor the issues on  
20 the production or lack of production of this particular  
21 power of attorney, but if the request was for probate  
22 records, this is probate records. This is not probate  
23 records, the declaration of the durable power of attorney,  
24 that's not going to be found in the probate records. I  
25 don't know what all you asked for.



1 MS. LANCASTER: The request was for any documents  
2 that he didn't have at that time, as I remember it. But we  
3 do have our own copy that we received also of the probate  
4 records, but we did not put it in as an exhibit. We put in  
5 the exhibit that we received from --

6 MR. KNOWLES-KELLETT: Mr. Higgs.

7 MS. LANCASTER: From Mr. Higgs.

8 MR. ROMNEY: Then you understand Exhibit 7 to be a  
9 true and correct copy of the probate records that were on  
10 file?

11 MS. LANCASTER: Yes, but I also understood that to  
12 be all the records relied upon by Mr. Brasher in stating  
13 that he was in charge of the estate of O. C. Brasher. That  
14 was all that was offered to us, and all we were told about  
15 as the basis for his belief.

16 Do you understand my response?

17 MR. ROMNEY: Well, I mean, yeah, and I don't mean  
18 to quibble with the words here. But if you asked for the  
19 records regarding the state of O. C. Brasher, that's one  
20 thing. The durable power of attorney may or may not be  
21 associated with the estate of that, so I don't know.

22 MS. LANCASTER: Your Honor, I don't know that we  
23 want to argue this back and forth.

24 JUDGE STEINBERG: Why don't we hold on, and what  
25 are we waiting for?